

**REMARKS**

Filed concurrently herewith is a Request for a Three-Month Extension of Time which shortens the statutory period for response to November 19, 2005. Accordingly, Applicant respectfully submits that this response is being timely filed.

The Official Action dated May 19, 2005 has been received and its contents carefully noted. In view thereof, allowed claims 17, 21 and 33 have been rewritten in order to place these claims in condition for allowance. As previously, claims 15-30 and 32-34 are presently pending in the instant application.

With reference now to the Official Action and particularly page 4 thereof, claims 17, 21 and 33 have been objected to as being dependent upon a rejected base claim but would be allowable over the prior art of record if rewritten in independent form. In view thereof, these claims have been rewritten in independent form including all of the limitations of their respective independent claim. Accordingly, it is respectfully submitted that claims 17, 21 and 33 are now in proper condition for allowance.

As to page 2 of the Official Action, Applicant hereby acknowledges that the rejections made in the previous Official Action under 35 U.S.C. §112 have been withdrawn by the Examiner and that the present application is now believed to be in proper formal condition for allowance.

With further reference to page 2 of the Office Action, claims 15, 16, 18-20, 22, 29-30, 32 and 34 have again been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,538,154 issued to von Holdt in view of U.S. Patent No. 5,103,993 issued to Bingisser. This rejection is again respectfully traversed in that the combination proposed by the Examiner neither discloses nor suggests that which is presently set forth by Applicant's claimed invention.

Again, each of independent claims 15, 19, 23, and 29 recite a lid for a container having a brim including an inner, outer and a top brim surface with the lid comprising a closure surface, circumferential rim, a plurality of cut outs formed in at least a transition wall of the circumferential rim, a circumferential seal formed adjacent to the circumferential rim with the circumferential seal being positioned along the inner side wall between the cut outs and the closure surface and at least one access portion formed in the closure surface, wherein at least an inner surface of the outer wall cylindrically circumscribes the outer brim surface of the container in a region extending from the plurality of cut outs to an outer edge of the circumferential rim, and at least a portion of the brim of the container is visible through each of said plurality of cut outs when the lid is positioned on the container. It is again respectfully submitted that the combination proposed by the Examiner fails to disclose or render obvious these features.

That is, in accordance with Applicants' claimed invention, the circumferential rim includes an outer wall having an inner surface of such outer wall which cylindrically circumscribes the outer brim surface of the container. That is, as noted hereinabove, in accordance with Applicant's claimed invention, points along an inner circumference of the inner surface of the outer wall are circumferentially aligned with one another and do not extend inwardly and thus do not include intermittent projections as are critical to the disclosure of von Holdt. Again, these features are clearly supported by Applicant's description and the several figures.

In rejecting Applicant's claimed invention, the Examiner again relies on the teachings of von Holdt as meeting all the limitations set forth therein except the provision of an access opening being formed in a closure surface. In light of this shortcoming, the Examiner relies on the teachings of Bingisser which illustrates a container structure similar to that of von

Holdt with an access port in the closure surface. While this may be the case, it is respectfully submitted that the patent to von Holdt when taken alone or in view of the teachings of Bingisser clearly fails to disclose or remotely suggest that which is presently set forth by Applicant's claimed invention.

Again, as with the previous Office Action, the Examiner is relying on the teachings of von Holdt as disclosing a plurality of openings around a periphery of a container lid as shown in the embodiment illustrated in **Figs. 9-11** thereof. Unlike the present invention both the von Holdt and Bingisser references disclose lids which are substantially permanently secured to the container to prevent the lids from inadvertently popping off when dropped. To this end, the disclosure of von Holdt includes a plurality of panels 22, which intermittently extend outwardly from an inner surface of the outer side wall of the lid configuration. The panels 22 and particularly 22C illustrated in the embodiment of **Figs. 9-11** are intermittently spaced about of the inner surface of the outer side wall and extend into a space formed between the inner and outer side walls of the rim. As the Examiner can appreciate from col. 5, lines 30+ of the von Holdt disclosure;

“the respective inwardly extending, spaced panels 22C are integrally molded with annular peripheral flange 14c, as before, but with each panel 22C being associated with an upper aperture 76, which is provided to permit portions of the mold to form the panels 22C without the presence of the side apertures in the angular flange 14C”.

The Examiner goes on to state on page 3, lines 2-4 of the Office Action, **that Fig. 6** of von Holdt illustrates that the rim of the container lid cylindrically circumscribes the container from the cutouts to the top edge or corner; however, **Fig 6** of von Holdt is directed to a different embodiment of the von Holdt reference than that of **Figs. 9-11**. The embodiment illustrated in Fig. 6 of von Holdt clearly fails to include cut outs formed in the transition wall

of the lid. Furthermore, Applicants' claimed invention recites that "at least an inner surface of said outer wall cylindrically circumscribes the outer brim surface of the container in a region extending from said plurality of cut outs to an outer edge of said circumferential rim." While the Examiner is of the position that the top edge or corner satisfies the outer edge limitation, it is respectfully submitted that in accordance with Applicants' claimed invention and as supported by the specification and several figures, the outer edge of the circumferential rim is not the top edge or corner of the rim. That is, for the claim to make any sense in so far as the invention is described and claimed, it must be the free edge of the rim and not the corner. As noted above, in accordance with Applicants' claimed invention "at least an inner surface of said outer wall cylindrically circumscribes the outer brim surface of the container in a region extending from said plurality of cut outs to an outer edge of said circumferential rim." If the Examiner's interpretation of this claim limitation were to be accepted, with the cut outs formed in the transition wall, the limitation would make no sense because the region extending from the cut outs to the corner would not include any of the outer wall. Accordingly, it is respectfully requested that the Examiner reconsider his reasoning in this regard and withdraw the rejection of such claims in view thereof.

With further reference to page 3 of the Office Action, claims 23-26 and 28 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Von Holdt in view of Bingisser and further in view of U.S. Patent No. 5,427,266 issued to Yun. This rejection is respectfully traversed in that the patent to Yun does nothing to overcome the aforementioned shortcomings associated with the previous combination proposed by the Examiner.

Initially, it is noted that claims 23-26 and 28 have been rejected under 35 U.S.C. §103(a) as being unpatentable in view of the teachings of Yun, however, no reference is made to Yun in rejecting Applicants' claimed invention. Accordingly, should the Examiner

maintain this rejection, the finality of such rejection should be withdrawn in that the Applicant has not had the benefit of the Examiner's reasoning with respect to this rejection in order to fully respond thereto.

It would appear that the Examiner relies on the teachings of Yun as disclosing a closure surface which extends from a lower most point of the inner wall, however, even if such is the case, the combination of Von Hold in view of Bingisser as discussed in detail hereinabove, clearly fails to disclose or remotely suggest that which is presently set forth by Applicants' claimed invention as recited in the patent claim 23. Therein, as with independent claims 15 and 29, it is specifically stated that at least an inner surface of the outer wall cylindrically circumscribed the outer brim surface of the container in a region extending from the plurality of cut outs to the outer edge of said circumferential rim. In that the patent to Yun fails to even include cut outs, it is respectfully submitted that this reference does nothing to overcome the shortcomings associated with the prior art combination proposed by the Examiner as discussed in detail hereinabove. Accordingly, it is respectfully submitted that independent claim 23 as well as those claims which depend therefrom clearly distinguish over the combination proposed by the Examiner and is in proper condition for allowance.

Again, should the Examiner maintain this rejection, the finality of such rejection should be withdrawn in that the Applicant has not had the benefit of the Examiner's reasoning with respect to this rejection in order to fully respond thereto.

Further on page 3 of the Office Action, claims 15, 16, 18-20, 22-26, 28-30, 32 and 34 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,858,756 issued to Fulton in view of U.S. Patent No. 4,428,498 issued to Obey. These rejections are respectfully traversed in that the combination proposed by the Examiner neither discloses nor suggests that which is presently set forth by Applicants' claimed invention.

In rejecting Applicant's claimed invention, the Examiner states that Fulton teaches at least one vent opening in the transition wall and further relies on the fact that the lid has four vent receiving areas and states that it would have been obvious to employ a vent in each one of these areas to provide sufficient venting. In this regard, the vent openings referred to by the Examiner are just that, vent openings and by definition require communication between the outer environment and the contents of the container. That is, in accordance with the teachings of Fulton and in order for the device of Fulton to operate as intended, it is impossible for there to be a circumferential seal formed adjacent to the circumferential rim and in a position along the inner side wall between the cut outs and closure surface. If such were the case, there could be no communication between the contents of the container and the atmosphere consequently no venting as is the purpose of the openings 11 of Fulton would occur. Moreover, the vent of Fulton is nothing more than a thin slit which does not permit visual inspection of the brim of an underlying cup as is specifically recited by Applicants' claimed invention.

While the Examiner appreciates that Fulton discloses only one vent, he states that Fulton discloses four vent receiving areas and goes on to state in rejecting Applicant's claimed invention that "It would have been obvious to employ a vent in each one of these openings to provide the sufficient venting." This is clearly contrary to the teaching of Fulton and motivation for such a conclusion is no where to be found. In fact just the opposite is the case.

Fulton discloses four "localized portions of the shoulder" with each of these localized portions being "spaced from the shoulder of to permit vapor to pass therethrough. There is no seal in this region. Fulton goes on to disclose only one vent opening. Clearly, Fulton found that the single vent was sufficient in venting the vapor from the four spaced locations and


consequently there can be found no motivation to provide additional vents as suggested by the Examiner. Further, even if such vents were present, visual inspection of the brim of the underlying cup would not be possible given the nature of the "slit vent" of Fulton.

Accordingly, it is respectfully submitted that Fulton clearly neither discloses nor remotely suggests that which is presently set forth by Applicant's claimed invention when taken alone or in combination with the teachings of Obey which merely disclose an access opening in the lid of a container. Therefore, it is respectfully submitted that each of independent claims 15, 19, 23 and 29 as well as those claims which depend therefrom clearly distinguish over the combination proposed by the Examiner and are in proper condition for allowance.

Therefore, in view of the foregoing, it is respectfully requested that the objections and rejections of record be reconsidered and withdrawn by the Examiner, that claims 15-30 and 32-34 be allowed and that the application be passed to issued.

Should the Examiner believe a further conference would be of benefit in expediting the prosecution of the instant application, he is hereby invited to telephone counsel to arrange such a conference.

Respectfully submitted,



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